IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 7470 of 2005

Between:

D.A. Reddy, E-85071, Conductor, Hyderabad-II Depot,
S/o. Pulla Reddy, 50 years, R/o. Dilsukhnagar,
Hyderabad District.

..... PETITIONER

AND

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1 The APSRTC, Rep. by its regional Manger, Ranga Reddy Region

at Imlibun Bus Stand, Hyderabad.
2 The APSRTC, Rep. by its Depot Manger, Nalgonda.
3 The APSRTC, Rep. by its Depot Manager, Hyderabad-II,

Dilsukhnagar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondents herein in imposing the punishment of reducing the basic pay of the petitioner by 2 incremental stages for a period of 2 years with cumulative effect without holding any departmental enquiry vide Proc.No. P1/1(20)/88-Nalgoda, dt. 16-10-1990, as illegal, unjust, contrary to well established principles of law and as such liable to be set aside by further directing the respondents to refix the pay of the petitioner by adding the differed increment w.e.f. 16-10-1990 and to pay the arrears forthwith and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondent No.: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the admission stage made the following :

ORDER:

The petitioner is working as a conductor in the respondent-corporation. He was issued a charge sheet on the allegation of unauthorized absence and after receiving the explanation of the petitioner, the final orders were passed on 16-10-1990 imposing the penalty of reduction of basic pay by two incremental stages for a period of two years with cumulative effect. The petitioner questioned the order on the ground that though there is reduction of basic pay by two increment stages for a period of two years with cumulative effect is a major penalty, the respondent passed the impugned order without conducting any enquiry as required under the rules.

Therefore, the order is illegal and it is liable to be set aside. He filed an appeal before the conciliation authority on 30-1-1991 but the same was dismissed by the appellate authority.

The learned counsel for the petitioner relied on a judgment of the Supreme Court in **Kulwant Singh Gill v. State of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without an enquiry. The petitioner therefore seeks to declare that the order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 14 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside in view of the judgment of the Supreme Court, cited supra, on account of long lapse of time in filing the writ petition I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of basic pay by two annual increments for two years without cumulative effect. But, the petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. However, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been imposed penalty of reduction of basic pay by two annual increments for two years without cumulative effect.

The Writ Petition is accordingly disposed of with the above observations. No costs.

K.C. Bhanu, J.

6th April 2005

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To

1 The APSRTC, Rep. by its regional Manger, Ranga Reddy Region
at Imlibun Bus Stand, Hyderabad.
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